

**NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 3300 Newport Boulevard**  
**Thursday, March 21, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

I. **CALL TO ORDER** – The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Chair Toerge

III. **ROLL CALL**

PRESENT: Ameri, Hillgren, Toerge, and Tucker  
ABSENT (Excused): Brown, Kramer, and Myers

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Marlene Burns, Administrative Assistant; Benjamin Zdeba, Assistant Planner; and Patrick Alford, Planning Manager

IV. **PUBLIC COMMENTS**

Chair Toerge invited those interested in addressing the Planning Commission to do so at this time.

Jim Mosher referenced a previous meeting where a presentation was given regarding the City's compliance with the General Plan. He addressed the requirement that any significant proposed development should be subject to a specific fiscal impact analysis using a model within the 2006 General Plan. He referenced the Uptown Newport project, stated that a specific fiscal analysis was not provided for the development and wondered regarding its existence. He addressed projects within the Coastal Zone noting that they are exempt from needing to apply for a Coastal Development Permit and referenced written comments relative to modification of lot boundaries, noting that they require a Coastal Development Permit.

V. **REQUEST FOR CONTINUANCES**

Deputy Community Development Director Brenda Wisneski reported receiving a request from the applicant to continue Item No. 2, related to Breakers Drive lot line adjustment.

James "Buzz" Person, representative for the applicants, reported the need to generate additional information regarding the project costs for the next Planning Commission meeting.

Discussion followed regarding the need for additional information, hearing the item tonight and honoring the applicant's request for a continuance. It was suggested that the Planning Commission conduct the hearing and the applicant can decide if a continuance is needed after hearing the discussion.

VI. **CONSENT ITEMS**

**ITEM NO. 1 MINUTES OF MARCH 7, 2013**

Chair Toerge noted receipt of additional comments from Jim Mosher regarding the minutes.

**Motion** made by Vice Chair Hillgren and seconded by Chair Toerge and carried (3 – 1 – 3), to approve the minutes of the Planning Commission meeting of the March 7, 2013, Regular meeting, as amended.

AYES: Ameri, Hillgren, and Toerge  
NOES: None  
ABSTENTIONS: Tucker  
ABSENT: Brown, Kramer, and Myers

## **VII. PUBLIC HEARING ITEMS**

### **ITEM NO. 2 BREAKERS DRIVE LOT LINE ADJUSTMENT/VARIANCE (PA2012-173)**

**Site Location:** 3124/3126 and 3130/3140 Breakers Drive

Assistant Planner Benjamin Zdeba presented details of the report addressing location, lot sizes, background, setbacks, interior lot lines and existing conditions. He noted agreement by the neighbors for a lot line adjustment for increased compliance with the Building Code and stated that there is no construction proposed as part of the application. He presented details of the variance, findings of compatibility and recommendations.

In response to an inquiry from the Planning Commission, Mr. Zdeba reported that if either property would be redeveloped in the future, a condition of approval has been included requiring compliance with the provisions of the Zoning Code relative to setbacks. He addressed compliance issues regarding both properties.

Interested parties were invited to address the Planning Commission on this item.

James "Buzz" Person reported that the building was not developed in 2011, but that the final building permit was issued in 2011. He stated that if the properties were to go on the market, there would be a survey and the survey would result in a discrepancy between what is shown on the plans and what is built.

In response to an inquiry from Commissioner Tucker, Mr. Person indicated that he does not believe that the properties are "free and clear". He stated that both of the properties have quite a bit of construction on them and provided a brief history.

Discussion followed regarding possible discrepancies between the Deeds of Trust and the legal descriptions of the parcels.

Jim Mosher noted that moving a line on a map will not change the physical situation of the properties and commented on a similar hearing in the past. He wondered why there is so much concern on the matter and suggested adding conditions to ensure adequate fire access to both properties and stated that it is the Planning Commission's duty to inform the applicant that before finalizing the change, they will need to submit an application for a Coastal Development Permit.

There being no others wishing to address the Planning Commission, Chair Toerge closed the public hearing.

Chair Toerge clarified both property owners were listed on the application, referenced written comments by Mr. Mosher and indicated that there is no change in density proposed, therefore, there is no need to apply for a Coastal Development Permit. He addressed concerns regarding setting a possible precedence and indicated support of the matter.

Commissioner Tucker felt that this is a proper way to handle an unfortunate situation and that the applicants have the right to make their request.

**Motion** made by Commissioner Tucker and seconded by Vice Chair Hillgren and carried (4 – 0 – 3), to adopt a resolution approving Lot Line Adjustment No. LA2012-007 and Variance Permit No. VA2012-007.

AYES: Ameri, Hillgren, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT: Brown, Kramer, and Myers

Mr. Person indicated withdrawal of the previous request for a continuance.

**ITEM NO. 3 MIXED-USE CODE AMENDMENT (PA2013-020)**

**Site Location:** City of Newport Beach

Planning Manager Patrick Alford presented details of the report including background and direction by the City Council to initiate an amendment that would allow the ability to modify the minimum lot area/density standard. He addressed applicable zoning areas and districts and presented recommendations as stated in the report.

Commissioner Tucker clarified actions needed at this time.

Interested parties were invited to address the Planning Commission on this matter.

Jim Mosher pointed out typographical errors needing correction and opined that the literal form of the amendment is not a valid amendment to the Zoning Code. He referenced Section 4.18 of the City Charter as well as recent changes relative to amending sections or sub-sections in their entirety and commented on the need to clarify the tables within the document.

There being no others wishing to address the Planning Commission, Chair Toerge closed the public hearing.

Discussion followed regarding an existing procedure for rounding numbers within the Zoning Code.

**Motion** made by Commissioner Tucker and seconded by Commissioner Ameri and carried (4 – 0 – 3), to adopt a resolution recommending the City Council approval of Code Amendment CA2013-001.

Commissioner Tucker suggested that going forward staff complete the staff report so that it is consistent with the City Charter requirements.

Assistant City Attorney Mulvihill indicated that the City Attorney's office agrees with his comments.

AYES: Ameri, Hillgren, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT: Brown, Kramer, and Myers

**VIII. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 4 MOTION FOR RECONSIDERATION - None**

**ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Deputy Community Development Director Wisneski reported that the Woody's Wharf appeal was recently heard by Council noting that changes have been made to the project and that staff recommended that the project be brought back to the Planning Commission on the basis of a new design for a cover for the patio area and development of a noise study. The item will be brought before the Planning Commission once the revised plans and noise study have been received.

Additionally, she stated that the Planning Commission should have received a notice for AB 1234, the ethics training scheduled for March 28, 2013, and that it is available on line for those not able to attend. She announced that the next Planning Commission meeting was originally scheduled for April 4, 2013, but that City Hall will be preparing to move to the Civic Center on that date, so the meeting has been moved to April 3, 2013, at 6:30 p.m.

**ITEM NO. 6 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None****ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES - None****IX. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:10 p.m.

The next regular meeting of the Planning Commission is scheduled for April 3, 2013, at 6:30 p.m.

The agenda for the Regular Meeting was posted on March 15, 2013, at 1:09 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

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Michael Toerge, Chairman

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Fred Ameri, Secretary

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AYES: Ameri, Hillgren, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT: Brown, Kramer, and Myers

Mr. Person indicated withdrawal of the previous request for a continuance.

**ITEM NO. 3 MIXED-USE CODE AMENDMENT (PA2013-020)**  
**Site Location:** City of Newport Beach

Planning Manager Patrick Alford presented details of the report including background and direction by the City Council to initiate an amendment that would allow the ability to modify the minimum lot area/density standard. He addressed applicable zoning areas and districts and presented recommendations as stated in the report. A revised Exhibit A to the draft resolution was distributed to correct a few typographical errors.

Commissioner Tucker clarified actions needed at this time.

Interested parties were invited to address the Planning Commission on this matter.

Jim Mosher pointed out typographical errors needing correction and opined that the literal form of the amendment is not a valid amendment to the Zoning Code. He referenced Section 4.18 of the City Charter as well as recent changes relative to amending sections or sub-sections in their entirety and commented on the need to clarify the tables within the document.

There being no others wishing to address the Planning Commission, Chair Toerge closed the public hearing.

Discussion followed regarding an existing procedure for rounding numbers within the Zoning Code.

**Motion** made by Commissioner Tucker and seconded by Commissioner Ameri and carried (4 – 0 – 3), to adopt a resolution recommending the City Council approval of Code Amendment CA2013-001.

Commissioner Tucker suggested that going forward; staff redoes the paperwork so that it is consistent with the City Charter requirements.

Assistant City Attorney Mulvihill indicated that Commissioner Tucker's suggestions can be incorporated into the ordinance and noted that the City Attorney's office agrees with his comments.

AYES: Ameri, Hillgren, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT: Brown, Kramer, and Myers

**VIII. STAFF AND COMMISSIONER ITEMS**

*changes to minutes per Leonie Mulvihill, Assistant City Attorney.*

3/21/13

**NEWPORT BEACH PLANNING COMMISSION MINUTES**

**Council Chambers – 3300 Newport Boulevard**

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Additional Materials

Item No. 1b

Draft Minutes 03/21/13

April 3, 2013

I. **CALL TO ORDER** – The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Chair Toerge

III. **ROLL CALL**

PRESENT: Ameri, Hillgren, Toerge, and Tucker

ABSENT (Excused): Brown, Kramer, and Myers

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